

State of Michigan LAW DAY 2008 Essay Contest
"The Rule of Law: Foundation for Communities of Opportunity and Equity"

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Prisoners Subject to Habeas Corpus
Should the prisoners at Guantanamo Bay have the right to habeas corpus?

Since the tragic bombing of the Twin Towers on September 11 2001, the government of the United States has become extremely cautious, and is always seeking ways to be aware of possible terrorist threats. They have been keeping potential terrorists in a prison at Guantanamo Bay, where the prisoners are awaiting release or trial. There is a large controversy about whether the prisoners, not being U.S. citizens, should have the right to habeas corpus. Similarly, should they be considered prisoners of war or "enemy combatants"? The prisoners of Guantanamo Bay should have the right to habeas corpus.

The prisoners at Guantanamo Bay have been accused of terrorism. As the accused, each person in the prison should have the right to habeas corpus. People opposing this rule of law may say that the prisoners are enemy combatants, not citizens of the United States, and therefore should not have the right to a trial. However the prisoners are being kept under U.S. custody, so they should have rights just like any other person in the United States. The Fifth Amendment states that the accused should have the right to a trial. We believe that all men are created equal and are subject to the rule of law. Saying that only some of the men in the prison have the right to habeas corpus is unjust and disrespects the core democratic value of equality. The prisoners, no matter what country they originate from, are human and despite their actions we must treat them humanely. We must not behave like terrorists ourselves.

In the Supreme Court case Hamdi v. Rumsfeld, 542 U.S. 507(2004), the suit was brought forth by Yaser Esam Hamdi, Hamdi's father. Hamdi was captured in Afghanistan and brought to Guantanamo Bay, then transferred to a prison in Virginia. After being sent from court to court, the petition finally found its way to the Supreme Court. Justice O'Connor in her opinion wrote, "We hold that although congress authorized the detention of combatants in the narrow circumstances alleged here, due process demands that a citizen held in the United States as an enemy combatant be given a meaningful opportunity to contest the factual basis for the detention before a neutral decision maker." 542 U.S., at 507. Justice O'Connor is correct when saying that detainees have the right to challenge their detention before an impartial judge. She primarily said that since the prisoners are being held under U.S. authority they should have the right to a trial, even though they may not be United States citizens.

The United States government is right to be cautious and aware of any threats to the nation. That includes carefully screening the detainees, as an acceptable plan to keep the country safe. Still, if the government does not give all the prisoners the right to a trial, it violates the Fifth Amendment and disrespects the core democratic value of equality. The prisoners at Guantanamo Bay, United States citizen or not, should be given the fundamental right to habeas corpus.